

AN ACT

To repeal section 407.1138, RSMo, and to enact in lieu thereof three new sections relating to unsolicited commercial electronic mail.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Section 407.1138, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 407.1138, 407.1148, and 407.1149, to read as follows:

407.1138. 1. It shall be a violation of this section for any person or entity who initiates the transmission of any commercial electronic mail message to any subscriber in this state to provide a false identity or false or misleading information in the subject line.

2. It shall be a violation of this section for any person that sends an unsolicited commercial electronic mail message to fail to use the exact characters "ADV:" as the first four characters in the subject line of the unsolicited commercial electronic mail message.

3. It shall be a violation of this section for any person that sends an unsolicited commercial electronic mail message that contains obscene material as defined in section 573.010, RSMo, or references a web site that contains obscene material to fail to use the exact characters "ADV:ADLT" as the first eight characters

in the subject line of the unsolicited commercial electronic mail message that contains obscene material.

4. It shall be a violation of this section to initiate the transmission of any unsolicited commercial electronic mail to a subscriber in this state who has notified a sender not to initiate the transmission of any further unsolicited commercial electronic mail. For purposes of this subsection, a subscriber is deemed to have notified a sender not to initiate the transmission of any further unsolicited commercial electronic mail if the subscriber:

(1) Replies to a sender at the valid sender-operated return electronic mail address or the sender's toll-free telephone number with directions not to initiate the transmission of any further unsolicited commercial electronic mail as provided in section 407.1123; or

(2) Otherwise gives actual notice to a sender not to initiate the transmission of further unsolicited commercial electronic mail; or

(3) Notifies the attorney general if a sender fails to provide a toll-free telephone number or valid sender-operated return electronic mail address as required by section 407.1123;
or

(4) Has subscribed to the state or federal database of those subscribers that object to receiving unsolicited commercial electronic mail.

5. The attorney general shall promulgate rules and regulations as he or she deems necessary and appropriate to fully implement the provisions of sections 407.1135 to 407.1141.

407.1148. No person or entity shall, after July 1, 2005, initiate the transmission of any unsolicited electronic mail to any subscriber in this state who has given notice to the attorney general, in accordance with rules promulgated pursuant to section 407.1149, of such subscriber's objection to receiving unsolicited electronic mail.

407.1149. 1. The attorney general shall establish and maintain a state database of electronic mail addresses of subscribers who object to receiving unsolicited electronic mail. The attorney general shall have such database in operation no later than July 1, 2005.

2. If the federal government or any agency of the federal government establishes a national database of e-mail addresses for subscribers who object to receiving unsolicited commercial e-mails, the attorney general shall include the Missouri-based e-mail addresses from that database, to the extent that those addresses can be determined and supplied to the attorney general in the state database established pursuant to this section.

3. Information contained in the database established pursuant to this section shall be used only for compliance with this section, in a proceeding or action pursuant to sections 407.1135 to 407.1147, or for verification that subscriber

information is correct. Such information shall not be considered a public record pursuant to chapter 610, RSMo.

4. The general assembly may appropriate moneys from appropriate funds, including the merchandising practices revolving fund established in section 407.140, for the purposes of establishing and maintaining the state database.

5. No later than February 1, 2005, the attorney general shall promulgate rules governing the establishment and administration of a state database to fully implement the provisions of sections 407.1135 to 407.1147.